

**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND  
GEOLOGISTS**

**INITIAL STATEMENT OF REASONS**

Hearing Date: None scheduled

Subject Matter of Proposed Regulations: Inspection of Examination

Sections Affected: 443 of Title 16 of the California Code of Regulations

Specific Purpose of each adoption, amendment, or repeal:

The Board proposes to repeal Section 443(c)(1). Section 443 describes the requirements necessary for an applicant to be eligible to inspect or appeal an examination. Subsection (c)(1) defines the criteria necessary to appeal a national examination prepared by the National Council of Examiners for Engineering and Surveying (NCEES). NCEES has made many changes to its examination procedures since this regulation was amended to include paragraph (c)(1) in 1998. These amendments included those relating to administration, format, and scoring of the examination. The Board is proposing that Section 443 be amended to repeal subsection (c)(1) since the NCEES examinations utilized by the Board consist solely of multiple choice questions, which are not eligible for appeal, or consist of both multiple choice and design essay questions but use a method of scoring that prohibits the Board from fully complying with the current language.

Factual Basis/Rationale

The Board has historically allowed review and appeals only for exams that contain design essay questions, and has not allowed review and appeals for exams that contain solely "multiple-choice type problems," as expressed in Section 443(b). The Board has recently been working to implement a computer-based examination testing program for its applicants, which contains only multiple-choice type problems. This would result in the review and appeal process becoming unnecessary. The only examination that would be eligible for review and appeal is the NCEES Structural Examination, which would consist of one section being multiple-choice and one section being essay.

The Board is proposing to repeal Section 443(c)(1) since the NCEES examinations used by the Board consist substantially of multiple-choice type problems and are not eligible for review or appeal. The NCEES examinations containing design essay questions use a method of scoring that does not allow the Board to determine if the applicant is eligible to appeal their score. Also, since NCEES does not provide the

applicants' scores to the Board, the Board does not receive or have knowledge of the actual passing score for any NCEES examination.

According to Section 443(c)(1), the Board allows applicants within eight (8) points of a passing score on a NCEES examination to appeal their score. When results are released, NCEES provides the Board with a list of the candidates who are eligible to review and appeal their examination. After the applicants are notified of their right to appeal, NCEES sends the deficient exam problems to the Board office and allows the candidates to review and appeal the questions. The Board then returns the information to NCEES for consideration. This process requires the Board to assume monetary liability while the national examinations are in the Board's possession.

However, with the new NCEES Structural examination, the design essay portion will be scored together with the multiple choice portion as a combined score. This hybrid grading system was created with the intention of taking as much subjectivity out of the exam grading as possible. This method of scoring will make it very difficult, if not impossible, for NCEES to determine who is eligible under the conditions specified in the existing regulation to review and appeal their examination. Therefore, the Board is proposing to repeal section 443(c)(1).

#### Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any):

1. Agenda Item 14A, Amendments to Board Rule 443 (Inspection of Examination) to Title 16, California Code of Regulations, Section 3005 for May 12 and 13, 2011, Board Meeting.
2. Minutes from the May 12 and 13, 2011, Board Meeting.
3. 2011-2014 Strategic Plan, Board for Professional Engineers, Land Surveyors, and Geologists, adopted May 12, 2011

#### Business Impact

These proposed amendments will not have any adverse economic impact on businesses.

#### Specific Technologies or Equipment

These proposed amendments do not mandate the use of specific technologies or equipment.

#### Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.